

Personnel Complaints

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the Fargo Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment, or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1009.2 POLICY

The Fargo Police Department takes seriously all complaints regarding the service provided by the department and the conduct of its members.

The department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and employment agreements.

It is also the policy of this department to ensure the community can report misconduct without concern for reprisal or retaliation.

1009.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the department.

1009.3.1 COMPLAINT DEFINITIONS

- (a) **Personnel Complaint:** The formal means for the department to review, investigate, or reach a conclusion relative to an allegation of a potential violation of department policy, unlawful conduct, or other misconduct on the part of the department employee.
- (b) **Complainant:** The person or persons who initiate a personnel complaint or who brings an allegation of employee misconduct to the attention of the department.
- (c) **Inquiry:** The informal means for the department to respond to a question concerning an employee's actions or an allegation of employee misconduct which, in some instances, be based on a complainants misunderstanding or disagreement with a law enforcement practice or department procedure. An inquiry may also be defined as the primary investigation into an allegation of employee misconduct which transitions into a personnel complaint if the facts and/or merit of the allegation require such a transition.

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- (d) Mediation: The process by which an allegation of employee misconduct may, in some instances, be resolved by having the complainant and the department employee, who is the subject of the allegation, engage in an informal discussion which attempts to resolve the issue in question.
- (e) Informal Counseling: The process by which isolated instances of employee misconduct and/or work performance deficiencies, which do not require the initiation of a personnel complaint, may be addressed and/or resolved by an employee's supervisor.

1009.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify their on-duty supervisor, command officer, or the Office of Professional Standards (OPS).
- (c) A command officer or supervisor shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
 - 1. Once initiated, the complaint will be forwarded to the department's OPS as soon as possible, but no later than 72 hours after it is initiated.
- (d) The department may be the recipient of tort claims and lawsuits.
- (e) Allegations of criminal misconduct, excessive or unnecessary use of force, or civil rights violations shall be received and promptly investigated by the department regardless of how or when the complaint was received.
- (f) Unless determined by the Chief of Police or OPS, a department employee who is the subject of a personnel complaint shall be notified in writing as soon as practical. The written notification shall be provided to the employee by OPS and will specify the department or City of Fargo employment policy, rule, procedure, directive, or law the employee is alleged to have violated as well as a brief description of the allegation.
- (g) The department will not accept or receive a personnel complaint from any person, to include a department employee, under the following circumstances unless specifically approved by the Chief of Police:
 - 1. An anonymous complaint
 - 2. A complaint wanting to dispute the legality of an arrest or other enforcement action prior to all of the relevant criminal proceedings being resolved other otherwise disposed of.
 - 3. A complaint from a person who's judgement perception, or ability to communicate effectively is, or appears to be, impaired due to alcohol intoxication, or from being under the influence of a drug or other controlled substance. In these instances, the complainant will be encouraged to re-contact

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the department when they are no longer under the influence of alcohol, a drug, or other controlled substance.

4. A complaint alleging an employee's misconduct occurred six (6) months or more prior to the department receiving the complaint.
5. A complaint which is retaliatory in nature between department personnel. In these instances the initial complaint investigation (if applicable) will deal with the entire scope of the grievances between the employees involved.

1009.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1009.4.1 COMPLAINT FORMS

Personnel complaint forms will be accessible at the front desk of the police facility and be accessible through the department website. Forms may also be available at other Fargo Police Department facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1009.4.2 ACCEPTANCE

During regular business hours personnel complaints, both internally and externally generated, will be directed to and received by the department's Office of Professional Standards (OPS). If the personnel assigned to OPS are not available, the complaint will be directed to and received by an on-duty sergeant, or a command officer.

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. A personnel complaint, both internally and externally generated, will only be received directly from the complainant, either in person or in writing, unless there is an extenuating or compelling reason not to do so. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

In some instances, a complainant's questions and/or concerns regarding a department employee's actions or conduct may be immediately resolved through informal discussion with a command officer, a sergeant, or other department supervisor. All command officers, sergeants, and supervisors are expected to utilize their best judgement and discretion when resolving issues in this manner. If a complainant is dissatisfied with the resolution or information provided by a command officer, sergeant, or other supervisor under these circumstances, the complainant will be directed to the Office of Professional Standards (OPS) where the complaint and an appropriate resolution will be considered further.

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1009.5 DOCUMENTATION

Supervisors shall ensure that all complaints are documented on a complaint form (attachment #1). The supervisor shall ensure that the nature of the complaint is defined as clearly as possible, to include a brief description of the allegation, date, time, and location of the incident. In addition, the name, address, and telephone number(s) of the complainant, witness, or others who may have information directly related to the complaint will also be included.

Any accompanying documentation relative to a personnel complaint, to include any written statements, photographs, other recordings, or any other information provided by the complainant at the time the complaint is received by the department will be attached and included in the initial complaint file whenever possible or applicable.

All complaints and inquiries should also be documented in a system which records and tracks complaints. The system shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the department should audit the system and send an audit report to the Chief of Police or the authorized designee.

[See attachment: Personnel Complaint Form.pdf](#)

[See attachment: Personnel Complaint Form II.pdf](#)

1009.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1009.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Office of Professional Standards (OPS). In most cases, OPS will conduct the investigation and provide the Chief of Police with a regular update as to the status of the complaint investigation. However, OPS may assign a personnel complaint (in whole or in part) to a command officer, sergeant, or other department supervisor who will be responsible for conducting the complaint investigation and returning it to OPS.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of command officers, sergeants, or other department supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Office of Professional Standards (OPS) who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the Office of Professional Standards, who will initiate appropriate action.

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- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours, or the next business day, of the department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution for possible consideration in the employee's yearly evaluation.
- (d) Ensuring upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Commander, the Office of Professional Standards, and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Shift Commander, Office of Professional Standards, or the Chief of Police for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Office of Professional Standards (OPS), who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (h) Ensuring that the procedural rights of the accused member are followed.

1009.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a command officer, sergeant, or other department supervisor or a member of the Office of Professional Standards, the following applies to employees:

- (a) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (b) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (c) Interviews of an accused employee shall be at the Fargo Police Department or other reasonable and appropriate place.
- (d) No more than two interviewers should ask questions of an accused employee during a single interview.
- (e) Prior to any interview, an employee should be informed of the nature of the investigation.
- (f) Personnel who are the subject of a complaint investigation, will respond in full to the complainant's allegation(s). This may include, but is not limited to, obtaining a written response from the department employee whenever it is appropriate to do so.

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- (g) Ensuring interviews of the complainant are generally conducted during reasonable hours.
- (h) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (i) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- (j) The interviewer should record all interviews of employees and witnesses. If the employee has been previously interviewed, a copy of the recorded interview should be provided to the employee prior to any subsequent interview.
- (k) All employees subjected to interviews which could result in discipline have the right to have an uninvolved representative or legal counsel present during the interview, unless it is determined by the Office of Professional Standards (OPS), the investigating supervisor, or the Chief of Police the person's presence may jeopardize the continuance and/or outcome of the complaint investigation.
- (l) In order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative, or attorney collectively, or in groups prior to being interviewed.
- (m) All employees shall provide complete and truthful responses to questions posed during interviews.
- (n) No employee may be compelled to submit to a deception detection device examination .
- (o) At the conclusion of the complaint investigation, the person assigned to conduct the personnel complaint investigation shall submit their findings directly to the Office of Professional Standards (OPS). After conducting a review of the complaint investigation to ensure it is complete, OPS will submit the investigation file to the Chief of Police for final review and disposition.

1009.6.3 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses the alleged acts did not occur or did not involve department members. Complaints determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses the alleged act occurred, but the act was justified, lawful, proper, and within the scope of the department policies, rules, procedures, directives, or the City of Fargo's employment policies.

Not sustained - When the investigation discloses there is insufficient evidence to prove or disprove the validity of the complaint allegation.

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Sustained - When the investigation discloses sufficient evidence to establish the act occurred and it constituted misconduct. If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

Policy Failure - The investigation proved the act(s) by an employee were justified; however, department policies, rules, procedures, directives, or the City of Fargo's employment policies governing such an act, were insufficient in providing the employee with the guidance necessary to protect the public's interest or the interests of the department.

Mediation - The complaint was resolved to the satisfaction and the mutual agreement of the complainant and the department employee, who is the subject of the complaint, through informal discussion and/or explanation.

Closed - The nature of the complaint or the circumstances of the investigation could not be classified through any of the other dispositions.

1009.6.4 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within 60 days from the date of discovery by an individual authorized to initiate an investigation, unless an exception or an extension is approved by the Chief of Police.

In the event new or otherwise relevant information regarding a personnel complaint is discovered after the complaint has received a final disposition, the Chief of Police may order the complaint investigation re-opened, after which the context of the complaint and the disposition may be subject to change.

If at any time prior to the conclusion of a personnel complaint investigation the complainant decides to withdraw their complaint, but the investigation has disclosed a possible violation of any department policy, rule, procedure, directive, or the City of Fargo's employment policies, the investigation will continue until a conclusion is reached and an appropriate disposition determination is made by the Chief of Police.

The Office of Professional Standards (OPS) shall provide the complainant, to include any department employee, who initiates a personnel complaint with written notification of the complaint disposition. The written notification shall include a brief summary of the investigations findings, but shall not include any details or reference to any discipline imposed upon the department employee(s) named in the complaint, if applicable.

1009.6.5 NOTICE TO COMPLAINANT OF INVESTIGATION

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

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1009.6.6 COMPLAINT REGARDING THE USE OF A CONFIDENTIAL INFORMANT

The member conducting the investigation regarding the alleged misuse of a confidential informant in violation of N.D.C.C. § 29-29.5-01 et seq. shall comply with the investigation time frame and notification requirements of N.D.C.C. § 29-29.5-07.

1009.7 DISPOSITION OF PERSONNEL COMPLAINTS

Sustained Personnel Complaints:

If a personnel complaint receives a sustained disposition, the Office of Professional Standards will forward the complaint file to the command officer responsible for the supervision of the employee named in the complaint. The command officer shall submit a written disciplinary recommendation to their respective division commander after considering the following:

- The nature and seriousness of the employee's actions.
- The employee's work performance and disciplinary history.
- Any extenuating, mitigating, or aggravating circumstances surrounding the complaint.
- Any previous effort to remediate the employee's misconduct or work performance deficiencies.

The division commander shall review the disciplinary recommendation submitted by the command officer responsible for the supervision of the employee named in the complaint, and attach their concurrence or non-concurrence to the recommendation prior to forwarding the entire complaint file to the Chief of Police. If the division commander does not concur with the disciplinary recommendation received, the division commander will submit a written disciplinary recommendation of their own, and include it in the complaint file prior to forwarding it to the Chief of Police. All disciplinary recommendations shall be submitted to and received by the Chief of Police **within 14 days** of the complaint receiving a sustained disposition, unless an exception or an extension is authorized by the Chief of Police.

If any part of the disciplinary recommendation submitted to the Chief of Police by either the command officer or division commander involves an economic sanction, specifically a suspension from duty without pay, a permanent or temporary demotion, a reduction in rank, or termination of employment with the department, the employee who is the subject of the disciplinary recommendation shall be provided with a pre-determination hearing with the Chief of Police prior to any disciplinary decision. A pre-determination hearing shall also be required prior to any disciplinary decision if, separate from any recommendation submitted to the Chief of Police, the Chief of Police considers an economic sanction to be a viable outcome to the complaint.

The Chief of Police shall be responsible for the final determination relative to employee discipline and will ensure it is imposed accordingly.

Inquiries:

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The department may receive an allegation of employee misconduct which may not constitute a violation of a department policy rule, procedure, directive, or the City of Fargo's employment policies. Rather, the allegation may be based on the complainant's misunderstanding or disagreement with a law enforcement practice or other department procedure. If an inquiry cannot be resolved, the Office of Professional Standards shall conduct a preliminary investigation into the allegation to determine if the initiation of a personnel complaint is necessary and/or appropriate.

If after receiving an allegation of employee misconduct, the Office of Professional Standards (OPS) determines through a preliminary investigation a personnel complaint is not justified, the allegation will be classified as an inquiry. The inquiry will be kept on file with OPS and the matter considered closed. However, if OPS determines through the preliminary investigation a personnel complaint is warranted, a complaint will be initiated and investigated as described within this policy.

Mediation:

In some instances, regardless of the evidence or facts discovered during the departments review, investigation, or conclusion to a personnel complaint or inquiry, it may be appropriate for the complaint, or inquiry to be resolved through mediation. The Office of Professional Standards (OPS) shall be responsible for identifying personnel complaints, or inquiries which may be best resolved through mediation. Mediation may only be considered as a possible means of resolving a personnel complaint, or inquiry if both the complainant and department employee, who is the subject of the complaint, agree to participate.

- Participation in mediation must be voluntary, and neither the complainant nor the department employee, who is the subject of the complaint, shall be coerced or pressured into using mediation as a means of resolving a complaint.

If at any time during or at the conclusion of mediation, either the complainant or the employee, who is the subject of the personnel complaint or inquiry is dissatisfied with the process or outcome, they may request to have the complaint or inquiry investigated and resolved outside of the mediation process. The Office of Professional Standards will ensure the complaint or inquiry is then resolved as otherwise described within this policy.

If a personnel complaint or inquiry is resolved to the satisfaction of both the complainant and the department employee through mediation, the person serving as the mediator will complete a written report detailing the mediation process and the outcome. The mediator's report will be included in the complaint or inquiry file which will be forwarded to the Chief of Police by the Office of Professional Standards for final review and disposition.

Informal Counseling:

At times, a department employee's misconduct and/or work performance deficiency may be best described as isolated and/or relatively minor in nature. In these instances, and only when the misconduct or performance deficiency does not require or otherwise make the initiation of a personnel complaint necessary, the employee's immediate supervisor, a command officer, or

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other department supervisor may utilize informal counseling as the means to appropriately address and/or resolve the misconduct or performance deficiency.

When a department employee's immediate supervisor, a command officer, or other department supervisor determines informal counseling is the appropriate means for addressing an employee's misconduct and/or performance deficiency, the supervisor or command officer may utilize the department's Informal Employee Counseling form. The completed counseling form shall be forwarded to the command officer responsible for the supervision of the employee, who is the subject of the informal counseling. The command officer receiving the counseling form shall ensure the subject of the informal counseling is considered for inclusion within the employee's annual performance appraisal.

[See attachment: Department Counseling Form.pdf](#)

1009.8 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1009.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate allowing the accused to continue to work would adversely affect the mission of the department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1009.10 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

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A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

A member accused of criminal conduct shall be afford their Garrity protections as it applies to relative case law.

The Fargo Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1009.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES FOR A SUSTAINED COMPLAINT

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

[See attachment: FPD Discipline Recommendation-Determination Form.pdf](#)

1009.11.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1009.11.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, which should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

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- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1009.11.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

1009.12 PRE-DISCIPLINE EMPLOYEE RESPONSE

As personnel complaints and/or inquiries are received, reviewed, investigated, and/or resolved by the department, the department shall remain committed to ensuring the due-process rights of the department employee are not compromised. Department employees will always be afforded a fair and reasonable opportunity to respond to any allegation which results, or may result, in the initiation of a personnel complaint.

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial, formal hearing, or designed to accommodate the presentation of testimony or witnesses. Employees shall be treated with courtesy and respect at all times, and shall be interviewed in a confidential setting whenever possible.
- (b) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (c) In the event the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (d) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

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- (e) If the personnel complaint investigation interview is audio and/or video recorded by the Office of Professional Standards or an investigating supervisor, the Chief of Police may authorize the production of a copy of the recording which will be made available to the employee upon written request. Both audio and/or video recordings of personnel complaint investigation interviews, outside of those initiated by the department, are prohibited unless otherwise authorized by the Chief of Police.
- (f) Employees may bring with them a person of their own choosing to any pre-determination hearing held with the Chief of Police, and may also present any pertinent information to the Chief of Police for consideration prior to any disciplinary determination. Employees wishing to present any additional information to the Chief of Police following such a hearing will have not less than 48 hours to do so.

1009.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline. The Chief of Police will determine whether or not to accept the resignation or retirement prior to the completion of the complaint process.

1009.14 POST-DISCIPLINE APPEAL RIGHTS

Non probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal in accordance with Fargo Municipal Code #7-0305, and City of Fargo Policy #300-008A. Department employees may appeal any discipline determination which consists of an economic sanction, specifically a suspension from duty without pay, a permanent or temporary demotion, reduction in rank, or termination or employment with the department, to the City of Fargo Civil Service Commission.

1009.15 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

Probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate (see also the Temporary Modified-Duty Assignments Policy).

1009.16 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

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Personnel complaint records, to included those categorized as an inquiry, are subject to review and/or inspection as prescribed by the "Open-Records" laws of the State of North Dakota and/or the policies governing the review and/or inspection of any such records established by the department and/or the City of Fargo. Personnel complaint records will be securely maintained in the Office of Professional Standards and may be accessed only upon written request to OPS unless otherwise authorized by the Chief of Police.

Personnel complaints or those categorized as an inquiry which are still pending investigation and/or review, or those which are otherwise awaiting a final disposition from the Chief of Police, are not considered closed and are therefore not accessible or subject to review and/or inspection by any person unless specifically authorized by the Chief of Police.

Any documentation relative to employee discipline which accompanies a personnel complaint shall be included in the complaint file. In addition, a copy of any final discipline determination made by the Chief of Police, and/or any written form of discipline which accompanies a personnel complaint, shall be forwarded to the City of Fargo's Human Resources Office for inclusion in the employee's personnel file where it will be retained indefinitely.

1009.17 TERMINATION REPORTING

When an officer is terminated, notice of the nature and cause of the termination, the effective date of the termination, and a statement indicating whether or not the Department recommends denial, suspension or revocation of the officer's peace officer license, shall be forwarded to the North Dakota Peace Officer Standards and Training Board within 30 days of the termination by the Chief of Police or his/her designee (N.D.A.C. § 109-02-02-18).

Attachments

Personnel Complaint Form.pdf

**FARGO POLICE DEPARTMENT
PERSONNEL COMPLAINT**

Employee(s) Involved: _____ ID # _____
_____ ID # _____
_____ ID # _____
_____ ID # _____

Complainant's Name: _____

Address: _____ Phone # (home) _____ (work) _____

Location of Occurrence: _____

Date/Time of Occurrence: _____

Witness Name: _____ Phone # _____

Address: _____

Employee Receiving Complaint: _____ ID # _____

Date/Time Complaint Received: _____

Details of Complaint (attach additional pages if necessary): _____

Assigned Investigator: _____ ID # _____

Date Assigned: _____ Date Completed: _____

DISPOSITION:

Sustained [] **Not Sustained** [] **Unfounded** [] **Exonerated** [] **Policy Failure** []

Mediation [] **Closed** [] **Date of Disposition Determination:** _____

Chief of Police/Designee: _____

Personnel Complaint Form II.pdf

FPD Policy 1010 - Personnel Complaints
Attachment #2

Name: _____

Address: _____ E-Mail: _____

Home Phone: _____ Business Phone: _____ Best Time to Reach: _____

Location of Incident: _____ Time/Date of Incident: _____

Name/ID # of Employee being complained on (if known): _____

Details of Complaint: _____

I, _____ affirm that the forgoing information provided by me is true and complete to the best of my knowledge.

**Return to Fargo Police Department
Office of Professional Standards
222 4th Street North, Fargo, ND 58102
(701) 476-4189**

Department Counseling Form.pdf

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Informal Employee Counseling Form

Employee: _____

ID #: _____

Supervisor: _____

Date: _____

Reason for Counseling:

Summary of Counseling:

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

FPD Discipline Recommendation- Determination Form.pdf

Investigation # _____
(Professional Standards Office Use Only)

FPD Policy 1010 – Personnel Complaints
Attachment #3

**FARGO POLICE DEPARTMENT
PERSONNEL COMPLAINT
DISCIPLINE RECOMMENDATION/DETERMINATION**

Name of Employee: _____ ID # _____

Violation Summary: to include specific rule, procedure, directive, and/or order violated including policy title and numerical reference:

Recommended Discipline: _____
(Provide disciplinary rationale on attached sheet)

Lieutenant's Signature: _____ Date: _____

Division Commander: _____ Concur () Do Not Concur ()

Predetermination Hearing – List all person's present -
() *Check if not applicable*

_____	_____
_____	_____
_____	_____
Recorder	Date/Time

Final Disciplinary Determination by Chief of Police or Designee: _____

Signature: _____ Date/Time _____

I acknowledge I have received notification of the disciplinary sanction:

_____ Date/Time _____
Employee's Signature

Attach any documentation provided by employee.